



May 31, 2019

**VIA ECF**

The Honorable Vince Chhabria  
United States District Court Judge  
San Francisco Courthouse  
Courtroom 4, 17th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Re: *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*,  
No. 3:18-md-02843-VC

Dear Judge Chhabria:

We respond to the Court's request at the May 29 hearing to provide Plaintiffs' "best cases re subsequent change to the contract terms of service." ECF No. 274.

In addition to the cases cited in prior briefing (ECF No. 266 at 13), the following authorities support Plaintiffs' arguments on this point:

- *Ingle v. Circuit City Stores, Inc.*, 328 F.3d 1165, 1179 (9th Cir. 2003).
- *Rodman v. Safeway Inc.*, No. 11-cv-03003-JST, 2015 WL 604985, at \*10-11 (N.D. Cal. Feb. 12, 2015), *aff'd*, 694 F. App'x 612, 613 (9th Cir. 2017).
- *Merkin v. Vonage Am. Inc.*, No. 2:13-cv-08026-CAS (MRWx), 2014 WL 457942, at \*7-\*9 (C.D. Cal. Feb. 3, 2014), *rev'd on other grounds*, 639 F. App'x 481 (9th Cir. 2016).
- See also *Asmus v. Pacific Bell*, 23 Cal. 4th 1, 16 (2000), and *Nguyen v. Barnes & Noble Inc.*, 763 F.3d 1171, 1177-79 (9th Cir. 2014).

Sincerely,

A blue ink signature of Lesley E. Weaver, written in a cursive style.

Lesley E. Weaver  
[lweaver@bfulaw.com](mailto:lweaver@bfulaw.com)

A blue ink signature of Derek W. Loeser, written in a cursive style.

Derek W. Loeser  
[dloeser@kellerrohrback.com](mailto:dloeser@kellerrohrback.com)

cc: All counsel on ECF